

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09 cv 375**

WILLIAM NORKUNAS, Individually,

Plaintiff

v

BILTMORE EIGHT, A Foreign LLC,

Defendant.

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ORDER

THIS MATTER is before the court for the purpose of hearing plaintiff's "Motion to Add Defendant" (#25). On January 20, 2011, the undersigned entered an Order (#31) setting a hearing on plaintiff's motion for January 28, 2011. Thereafter, on January 24, 2011 the parties, through their counsel, filed a motion entitled "Joint Motion to Continue Motion Hearing" (#34). In the motion, the parties advised they had reached an agreement resolving all claims at issue in the matter and requested that the court continue the hearing of plaintiff's motion to add an additional party for a period of thirty days, which was described as a period of time as "would allow adequate time to finalize the agreement." This court granted the motion and continued the hearing until February 28, 2011, at 2:00 o'clock p.m. On February 28, 2011, the undersigned attempted to conduct the hearing regarding plaintiff's motion. Neither counsel for plaintiff nor counsel for defendant appeared. The court instructed the clerk to attempt to contact counsel for plaintiff and the results were that neither attorney for plaintiff answered their phone. The clerk then attempted to call counsel for defendant and was successful in obtaining contact with Mr. Gottschalk who

advised that the matter had been settled, but the documents reflecting the settlement had not been executed.

ORDER

IT IS, THEREFORE, ORDERED that a hearing will be held on **Friday, March 18, 2011**, at **2:00 p.m.** in courtroom #2 of the United States Courthouse in Asheville for the following purpose:

1) To hear and determine whether or not sanctions should be imposed upon counsel for plaintiff and counsel for defendant, pursuant to the inherent power of the court, as a result of counsel for both parties failure to appear at the hearing of this matter that was scheduled for February 28, 2011;

2) To hear and determine plaintiff's Motion to Add Defendant (#25).

All counsel for the parties in this matter are directed to appear for this hearing. If the Motion to Add Defendant is withdrawn and a proposed consent decree signed by all parties is tendered to the district court before such date, the hearing will be cancelled and the issue of sanctions will be considered moot.

Signed: March 2, 2011

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Dennis L. Howell
United States Magistrate Judge

